

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN F. HUTCHENS,
Plaintiff,

v.

UNITED STATES OF AMERICA STATE
OF CALIFORNIA, et al.,
Defendants.

Case No.18-cv-03465-JD

ORDER DISMISSING CASE

On August 14, 2018, the Court adopted Magistrate Judge Spero's report and recommendation and dismissed without prejudice pro se plaintiff Hutchens's complaint under 28 U.S.C. § 1915(e)(2)(B). Dkt. No. 17. The Court gave Hutchens until September 13, 2018 to amend his complaint, and advised him that failure to do so would "result in dismissal of this case with prejudice" under Federal Rule of Civil Procedure 41(b). *Id.* As of the date of this order, the Court has not received an amended complaint.

The Court has considered the five factors set forth in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987). The Court finds that notwithstanding the public policy favoring the disposition of actions on their merits, the Court's need to manage its docket and the public interest in the expeditious resolution of the litigation require dismissal of this action. There is no appropriate less drastic sanction in light of plaintiff's failure to amend his complaint in a timely manner. This action is dismissed with prejudice pursuant to Fed. R. Civ. Pro. 41(b) for plaintiff's failure to prosecute.

IT IS SO ORDERED.

Dated: September 20, 2018



JAMES DONATO
United States District Judge

UNITED STATES DISTRICT COURT
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JOHN F. HUTCHENS,
Plaintiff,

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Defendants.

Case No. [18-cv-03465-JD](#)

CERTIFICATE OF SERVICE

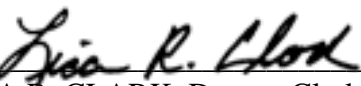
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 20, 2018, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

John F. Hutchens
1924 Trinity Avenue
Walnut Creek, CA 94596

Dated: September 20, 2018

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO